

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **People of MI v Bashara Merriweather**

Docket No. **274697**

L.C. No. **89-005816-01**

William C. Whitbeck, Chief Judge, acting under MCR 7.203(F)(1) and 7.216(A)(10),
orders:

The delayed application for leave to appeal is DISMISSED for lack of jurisdiction because the defendant cannot appeal the denial or rejection of a successive motion for relief from judgment. See MCR 6.502(G)(1). MCR 6.502(G)(2) is not applicable because defendant cannot at this point demonstrate that the retroactive change in the law would result in the setting aside of his conviction. See MCR 6.502(A). It is clear that the trial court did not view what defendant filed as a petition for DNA testing under MCL 770.16. That is understandable in light of the fact that even though defendant requests an order of DNA testing in his application for leave to appeal, he does not even address the four conditions he must satisfy under MCL 770.16(3) before that occurs.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JAN 11 2007

Date

Sandra Schultz Mengel
Chief Clerk